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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,907	04/03/2007	Gerhard Brendel	LAN15 P-303	1880
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EXAMINER				
MILLER, MICHAEL G				
ART UNIT		PAPER NUMBER		
1712				
MAIL DATE		DELIVERY MODE		
07/22/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,907

Applicant(s)

BRENDEN, GERHARD

Examiner

MICHAEL G. MILLER

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13-16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13-16, 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-040)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Examiner notes the amendment filed 17 MAY 2011. As a result of the amendment:
 - a. Claims 1-10, 12, and 17-20 are canceled.
 - b. Claims 11, 13-16 and 21-24 are pending.
 - c. Claim 11 is amended.

Response to Arguments

2. Applicant's arguments filed 17 MAY 2011 have been fully considered but they are not persuasive.
3. Applicant's first argument is that GB455409 does not disclose a water-based paint or an essentially solvent-free hot melt paint synthetically produced. Examiner respectfully disagrees, noting that bitumen is a common refinery byproduct and is therefore synthetically produced. Further, a paint is a substance used for decorating or protecting a surface, which is the purpose the bitumen is fulfilling in the cited art.
4. Applicant's second argument is that the water produced by this method after cooling may produce problems with paints or lacquers. Examiner again points out that a paint is a substance used for decorating or protecting a surface, which is the purpose the bitumen is fulfilling in the cited art.
5. Applicant's third argument is that since Claim 11 is allowable, Claims 13-16 and 21-24 are allowable by dependency from an allowable claim. As discussed above, Claim 11 is not considered allowable at the present time.

6. Applicant's fourth argument is that the particular nozzle arrangement is not taught in the prior art. Examiner cites Item 10 from the previous Office Action, wherein the nozzle is taught at Page 2 Lines 59 - 76, the bitumen tank is taught at Page 2 Lines 83 - 90, and the water-vapor generation device is inherently taught at Page 1 Line 104 – Page 2 Line 11, using water vapor as the auxiliary gas.
7. Applicant's fifth and sixth arguments are addressed by the citations in Applicant's fourth argument.
8. Examiner maintains all grounds of rejection from the previous Office Action.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 11, 13-15 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Colmant (GB 455,408, hereinafter '408).
11. Claim 11 – '408 teaches a method for coating substrates with at least one coating material comprising at least one organic component and applying the coating material to the substrate by atomization and spraying, wherein the coating material is atomized by water vapor (Claims 1 and 2, Page 2 Lines 59-76). The bituminous substance applied as described is a paint insofar as it is a substance used for decorating or protecting a surface, and it is essentially solvent-free and requires high

heat to melt. As discussed above, bitumen is a common refinery byproduct and is therefore synthetically produced.

12. Claim 13 – Page 1 Lines 9 – 17 teach applying the bituminous substance as a protective coating, which implies that it is applied as at least a top coat.

13. Claim 14 – As discussed in Claims 1 and 2 of '408, the material is atomized with assistance from water vapor.

14. Claim 15 – Page 1 Lines 85-89 teach spraying at 5-6 atmospheres., which is roughly 5-6 bar.

15. Claim 21 – The nozzle arrangement is discussed at Page 2 Lines 59-76. The bitumen tank is discussed at Page 2 Lines 83-90. The water-vapor generation device is inherent from Page 1 Line 104 - Page 2 Line 11, wherein the auxiliary gas is water vapor.

16. Claim 22 – A pressure-increasing device is inherent as discussed in Claim 15, as the bitumen is sprayed at pressures far above 1 atmosphere.

17. Claim 23 – The feed line for a system comprises every part of the system which handles the material to be passed through the system. In this case, the feed line for the bitumen comprises the bitumen storage tank, the piping connecting the storage tank to the nozzle, and the nozzle. There has to be a change in feed line diameter between the top of the bitumen storage tank and the nozzle; otherwise there is no distinction between the bitumen storage tank and the piping connecting it to the nozzle. Therefore, there is a reduction in cross-section in the feed line. Page 2 Lines 37-58 discuss the changes of shape in the piping and notes that they do in fact cause pressure changes.

It is noted in particular at Lines 54-58 that the prior art does not discourage all pressure changes, merely sudden and abrupt ones.

18. Claim 24 – This is inherent, as the natural state of water at atmospheric conditions is liquid. For steam to be produced, heat or pressure must be applied to the liquid.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

21. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over '408.

22. Claim 16 – Page 1 Lines 8 – 17 teach applying the bituminous substance as a coating to constructions in modern building practice. Examiner takes official notice of the fact that metal and wood were common building materials at the time '408 was published and that metal, plastic and wood were common building materials at the time the invention was made.

Conclusion

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MILLER whose telephone number is (571)270-1861. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on (571) 272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MICHAEL G MILLER/
Examiner, Art Unit 1712

/Michael Cleveland/
Supervisory Patent Examiner, Art Unit 1712